

## **REMARKS/ARGUMENTS**

Applicants have reviewed and considered the non-final Office Action mailed on May 30, 2007 ("Office Action"), and the references cited therewith. Applicants appreciate the Examiners' acknowledgment that Applicants' arguments filed February 27, 2007 were persuasive. Applicants also appreciate the withdrawal of the rejection issued in the January 4, 2007 Office Action.

Applicants note that the Examiner has issued "new ground(s) of rejection...made in view of a newly found prior art reference." In the current Office Action, the Examiner cites three references: Schutz (U.S. Pat. No. 3,037,509), Eriksson (U.S. Pat. No. 5,152,757), and Adamson (U.S. Pat. No. 6,391,034). Schutz and Adamson were both cited by the Examiner in the January 4, 2007 office action. Eriksson was cited by Applicants in an Information Disclosure Statement filed March 31, 2006, more than 9 months prior to the January 4, 2007 Office Action. Therefore, all three references cited in the current Office Action were on record well before the issuance of the May 30, 2007 office action. Applicants therefore do not agree that the current rejection is based on a "newly found prior art reference."

Claims 1, 2, 6, 10, 12, 13, and 14 are amended and no new claims are added; as a result, claims 1-20 are now pending in this application.

Applicants respectfully submit that the amended claims do not introduce any new subject matter and are intended to cover additional claimable subject matter fully supported by the originally filed specification.

### **I. CLAIM REJECTIONS § 112**

Claim 6 stands rejected under 35 U.S.C. § 112, second paragraph as being indefinite due to a lack of antecedent basis for the term "said drive end" in line 2. Applicants have amended claim 6 to depend from claim 4 instead of claim 3. Claim 4 provides proper antecedent basis for the term "said drive end." Accordingly, Applicants respectfully request withdrawal of the rejection of claim 6.

## II. CLAIM REJECTIONS §103

Claims 1, 2, 4, 9-14 and 18-20 stand rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over Schutz (U.S. Patent No. 3,037,509) in view of Ericksson (U.S. Patent No. 5,152,757). Applicants respectfully traverse the rejection and believe the claims are not obvious in view of the cited references. Although Applicants believe the unamended claims are sufficiently clear, in the interest of moving the case to issuance, Applicants have amended claims 1, 2, 4, 9-14 and 18-20 to clarify the claimed subject matter. Accordingly, Applicants respectfully request reconsideration and withdrawal of the §103 rejection of claims 1, 2, 4, 9-14 and 18-20, as well as those claims which depend therefrom.

Applicants respectfully reserve the right to prosecute the subject matter recited in claims 1, 2, 4, 9-14 and 18-20 prior to the instant amendment in one or more continuation applications.

Assuming, without admitting, that the references disclose the features cited by the Examiner, the references do not disclose or render obvious the subject matter of amended claims 1, 2, 4, 9-14 and 18-20, as well as those claims which depend therefrom. Amended claim 1 requires the harvester assembly to be configured to cut the dermal tissue into tissue particles ranging between 50 and 300 microns. Amended claim 2 requires a median particle size of about 100 microns. While Schutz may disclose cutting tissue into "microscopic" particles (col. 1, line 15), the reference does not disclose or render obvious a particular particle size or range of sizes that can provide the stated objects of embodiments of the present invention. Such objects include: improved micro-graft viability, improved cosmetics, reduced donor size, minimized scarring, and improved pliability (Specification, p. 2, paragraphs [0007] and [0008]). Ericksson also does not disclose or render obvious a particular particle size or range of sizes. For at least these reasons, claims 1 and 2, as well as those claims which depend therefrom, are not obvious in view of Schutz and Ericksson. Claim 9, which claims a method for using a dermal tissue grafting system comprising the step of accessing a dermal tissue sample with tissue harvester assembly of claim 1, is also not

obvious for at least the reasons mentioned in the discussion of claim 1. Accordingly, Applicants respectfully request that the rejection of claims 1, 2, 4, and 9 be withdrawn.

Amended claim 10 requires a housing configured to be removed from the tissue particle harvester assembly while the cutting tool is contained within the housing. Amended claim 12 requires the housing to comprise a first port and the nanograft cell to comprise a second port, while amended claim 13 requires the first and second port to be configured to receive a syringe. Claim 14 requires a housing configured to receive a gasketed cap.

Neither Schutz nor Ericksson disclose or render obvious a housing that is configured to be removed from the tissue particle harvester assembly while the cutting tool is contained within the housing. In addition, neither Schutz nor Ericksson disclose or render obvious a housing comprising a first port and a nanograft cell comprising a second port. Furthermore, neither Schutz nor Ericksson disclose or render obvious a first port and a second port configured to receive a syringe. Finally, neither Schutz nor Ericksson disclose or render obvious a housing configured to receive a gasketed cap. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 10-14 and 18-20.

Claims 3, 5-8, and 15-17 stand rejected as allegedly being unpatentable over Schutz in view of Ericksson, and further in view of Adamson (U.S. Patent No. 6,391,034). Claims 3 and 5-8 depend directly or indirectly from claim 1, and are therefore patentable for at least the reasons provided in the discussion of claim 1. Claims 15-17 depend directly or indirectly from claim 10, and are therefore patentable for at least the reasons provided in the discussion of claim 10. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3, 5-8, and 15-17.

### Conclusion

If a Petition for Extension of Time under 37 C.F.R. 1.136(a) or an additional Petition for Extension of Time under 37 C.F.R. 1.136(a) is required, the petition is herewith made and the Commissioner is authorized to charge the required fee to deposit account number 500326.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment made with this Office Action, to Deposit Account Number 500326.

In light of all the foregoing, believing that all things raised in Examiner's May 30, 2007 Office Action have been addressed, Applicants respectfully request reconsideration of the prior rejections and objections, as well as allowance of the claims and passage of the application to issue. If the Examiner would care to discuss any remaining matters by phone, Applicants invite the Examiner to call 210.255. 6855.

Respectfully submitted,



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